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Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 Twelfth Street, SW
Washington, DC 20554

EX PARTE

Re: WC Docket Nos. 99-200, 96-98, 95-116

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, this is to notify the Commission that on July 10, 2002, I met with Eric Einhorn and Pam Slipakoff of Wireline Competition Bureau and Jennifer Salhus of the Wireless Telecommunications Bureau. By telephone, we were joined by Joan Ahern, Senior Manager, Network Services, Allegiance Telecom, Inc. ("Allegiance"). We discussed the Commission's March 14, 2002 *Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No 95-116* ("Further Notice"). Specifically, Allegiance discussed the implications that local number portability ("LNP") and number pooling rule changes may have for the future use of a switching technology that Allegiance and other carriers currently use.

The *Further Notice* asks whether: (1) the Commission should reinstate an obligation that all carriers in the top 100 Metropolitan Statistical Areas ("MSAs") be LNP-capable, regardless of whether another carrier has made a request; and (2) if certain small carriers or classes of carriers that utilize numbering resources should be exempt from number pooling requirements, regardless of whether they must be LNP-capable. As will be described, Allegiance currently makes a limited use of a switching technology that is not fully LNP-capable in the sense that it cannot perform default LNP queries.

Through operating subsidiaries, Allegiance is a facilities-based competitive local exchange carrier serving 36 markets in the top 100 MSAs through use of its 31 Lucent 5ESS switches. As of March 31, 2002, Allegiance served 1,139,400 lines nationwide. As an efficient and economical way of expanding its network to accommodate demand for Internet access, Allegiance has also deployed six CSG/CVX-1800 SS7 Gateway

switches ("softswitches"). The softswitches are not currently capable of processing outbound traffic and are used to receive inbound data traffic. Each of the softswitches has a dedicated NXX code so that a Location Routing Number can be associated with the softswitch in the Local Exchange Routing Guide. LNP databases can be programmed to port the telephone numbers native to the Allegiance NXXs served by the softswitches to other carriers' switches. Allegiance's softswitches are not LNP-capable, however, in the sense that if one of those Allegiance telephone numbers was ported to another carrier and the call was erroneously routed to Allegiance by the N-1 carrier, Allegiance could not perform a default LNP query. While the risk an unqueried call would be delivered to a softswitch is small, the softswitch's inability to forward the call may render it non-compliant with LNP obligations if those rules are revised.

In the Commission's *First Report and Order* on LNP, the Commission exempted "paging and other messaging services," as well as certain commercial mobile radio services, from LNP obligations. *First Report and Order and Further Notice of Proposed Rulemaking*, Telephone Number Portability, CC Docket No. 95-116, ¶ 156 (rel. July 2, 1996). This exemption remains. Allegiance submits that its softswitches are entitled to the same exemption. Even if the softswitches are not currently exempted, the *Further Notice* relieved Allegiance of providing LNP in the absence of a carrier request. The *Further Notice* seeks comment, however, on whether there should be any exceptions to LNP going forward at all.

To eliminate any ambiguity, Allegiance believes that the Commission should exempt carriers using one-way, data only switches from LNP obligations. Like paging and other messaging carriers, Allegiance does not provide outbound calling capability to its customers served by softswitches. Allegiance serves Internet Service Providers ("ISPs") from softswitches. ISPs' customers usually pre-program their computers to dial-up alternate telephone numbers. In Allegiance's experience, ISPs are less likely to change carriers, or to request to retain telephone numbers used for dial-up Internet access when they do. Consequently, an exemption of one-way, data only switches from LNP obligations is warranted and consistent with the current exemption in effect.

Alternatively, Allegiance endorses the California and Texas Commissions' requests that state commissions be delegated the flexibility to grant "good cause" waivers of LNP obligations. The Commission already has one such similar delegation in the "safety valve" waiver of 47 C.F.R. § 52.15(g)(4) that permits state commissions the flexibility to grant additional numbering to carriers in cases of verifiable need. In the case of the "safety valve" at least, Allegiance believes that the Commission has given the states an effective tool to flexibly meet unique carrier circumstances.

Allegiance attains substantial expense savings and network efficiencies through use of softswitch call processing. Allegiance has a Lucent switch serving every rate center in which it also uses a softswitch. Its Lucent switches' most efficient use is to accommodate growth in voice traffic. Unlike the Lucent switches, however, the softswitches do not require expensive Digital Access Cross-Connect System ("DACS")

facilities. By rerouting one-way data traffic from Lucent switches, the existing DACS facilities can accommodate growing voice traffic. In addition, the cost of adding switch ports to the softswitches is substantially less than the cost of adding inbound and outbound switch ports on the Lucent switches, so existing switch ports on the Lucent switches can be used to accommodate voice traffic growth as well. Softswitch routing also relieves congestion on the voice switches due to increased ISP-bound call durations, and decreases the amount of trunks Allegiance would need to interconnect to incumbent local exchange carrier networks. If a new, expanded Commission LNP obligation were to compel Allegiance to decommission its softswitches due to an inability to perform default query routing, Allegiance would have to reroute large amounts of traffic, perhaps on short notice. In addition, Allegiance might incur unbudgeted capital expenses on two-way switches to accommodate traffic currently routed to softswitches. The Commission should not take any action that would yield such a result, particularly when Allegiance is attempting to use novel and cost-effective network technology to grow its business during these troubled economic times in the telecommunications industry.

Nortel, the original softswitch equipment vendor, recently sold the product to Aastra. Allegiance had been in discussions with Nortel about when the switches would be upgraded to support two-way traffic and LNP capability. Allegiance anticipated Nortel's upgrade to be delivered this summer. Aastra does not intend to meet that timeframe. Moreover, Aastra has indicated to Allegiance that it does not believe the Commission's rules compel either company to deploy LNP capability while the softswitch remains a one-way product.

If the Commission determines to require all top 100 MSA carriers to provide LNP without exception, Allegiance will require time to seek a longer-term state commission waiver if such is possible, or to ramp up discussions with the new equipment vendor to gain a faster upgrade. Historically, the Commission has given carriers up to six months in which to comply with LNP obligations. 47 C.F.R. § 52.23(b)(2)(iv)(C), (D); *Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, Number Resource Optimization, CC Docket Nos. 99-200, 96-98, 95-116, ¶ 125 (rel. Dec. 28, 2001). Allegiance requests that any reinstatement of expanded LNP obligations not take effect until at least six months after the effective date of the Commission's ruling.

Allegiance does not intend to be permanently without LNP capability in the softswitches. When Aastra upgrades its product to provide two-way switching capability, Allegiance anticipates it will have full LNP capabilities, including the ability to launch default queries. At that time, whether the Commission has exempted one-way data switches from LNP permanently, permitted no exemptions, or allowed state commission waivers, Allegiance's softswitches will be compliant.

For the same reasons that one-way data only switches should not be subject to LNP obligations, numbers assigned to those switches should not be subject to number pooling obligations either. Contrary to the suggestions of wireless carriers noted in the

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Further Notice, Allegiance is not currently aware of a way in which it can participate in number pooling without full LNP capability. The risk that an unqueried call would reach Allegiance's softswitches in the pooling environment, while still small, is greater than if there were no pooling. It is a certainty that pooled 1,000 number blocks would be ported. The Commission should not require carriers without LNP obligations to participate in number pooling.

A copy of this letter is being filed electronically for inclusion in the public record in each of the above-referenced proceedings.

Very truly yours,

Morton J. Posner

cc(by electronic mail):

Cheryl Callahan, Esq.

Eric Einhorn, Esq.

Jennifer Salhus, Esq.

Pam Slipakoff, Esq.